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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,192

02/17/2004

Guy Brochu

2634-8A

9912

7590

08/07/2006

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/780,192	<b>Applicant(s)</b> BROCHU ET AL.	
	<b>Examiner</b> Chi Q. Nguyen	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Figures attached</u> .                 |

### **DETAILED ACTION**

This Office action is in response to the applicant's application filed on 2/17/2004.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inwardly extending flange portion 40 must be shown or the feature(s) canceled from the claim(s) and there is no spacer and tensioning member 50 in Figures 2-3 as described in the specification on page 7, lines 9-10. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the disclosure on page 1, line, 6, and page 5, line 5, a phrase “utilise(d)” should read as –utilize(d)--. And page 6, line 10, page 7, lines 1, 11, a phrase “planer” should read as –planar--

On page 8, line 4, the copending application number needed to disclose.

Appropriate correction is required.

### ***Claim Objections***

Claims 1 and 6 are objected to because of the following informalities: the citation on lines 11 and 14 of claim 1 and line 2 of claim 6, a phrase “generally planer” should read as –generally planar--. Appropriate correction is required.

Claim 1, line 5, states “a second lower section” but where is the first lower section? Correction is required.

Claim 1 is objected to because of the following informalities: on line 10, between words “that first” the applicant is advised to add –said or the” because the first cooperative locking means already cited. Appropriate correction is required. The applicant is advised to correct a word “facia” for –fascia—and “cooperating locking” should be consistently read as –cooperative locking—throughout the claims 1-10.

Claim 6, line 1, the citation “wherein second member” should read as –wherein said second member--

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard claim 1, the citation "said first and second cooperative locking means being designed such that first cooperative locking means hold said fascia member in position" is confusing because the first cooperative locking means only engaged with the second cooperative locking means of the second member and it is not clear how the first cooperative locking means hold the fascia member?

Since the claims 2-8 are depending upon the rejected claim 1 also rejected.

In regard claim 2, it is not clear the citation "wherein said upper section" of the first member or the second member? Because both members having the upper portion as cited in claim 1. Clarification is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Butzen (US 4,707,954).

In regard claim 1, Butzen teaches a fascia system comprising a first member 20 and a second member 10, said first member 20 having an upper section, a drip edge

22a formed at an extremity of said upper section, a second lower section (where 21 points to) which includes a generally vertical extending portion 21 having first cooperative locking means 24 associated therewith, said second member 10 comprising a fascia member 1 having second cooperating locking means 17 at an upper portion (where 16 points to), the first cooperative locking means 24 hold said fascia member 1 in position, said second member 10 having a generally planar central portion 11, and an inwardly extending flange 18 arrangement at a bottom end of said generally planar portion 11 (see Fig. 1).

In regard claim 2, wherein said upper section of the first member 20 having a first portion F (see attachment of Fig. 1) and a second portion 22a angled downwardly with respect to the first portion F.

In regard claim 3, wherein said first member 20 and second member 10 are formed of a metallic sheet material and the metallic material (see col. 2, lines 2, 18).

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Knoebl (US 4,461,128).

In regard claim 9, Knoebl teaches soffit and fascia construction having a roof structure 10 including a plurality of sloping rafters 18 extending beyond an adjacent wall structure and which sloping rafters terminate in a fascia 28, and wherein said rafters are covered by a roofing material 18 and the fascia system comprising a first member F (see attachment of Fig. 5a) and a second member 54; said first member F having an upper section secured to said rafters under said roofing material (see Fig. 4) a drip edge (where 37 points to) formed at an extremity of said upper section; a second lower

section lower section which includes a generally vertically extending portion 74, said generally vertically extending portion having first cooperative locking means 64 thereon; said second member 54 comprising a fascia member 28 having second cooperative locking members 62 at an upper portion thereof, said first and second cooperative locking members being engaged such that said fascia member 28 is held in position; said second member having a generally planar central portion 56 and an inwardly extending flange 58 arrangement at a bottom end of said generally planar portion, said inwardly extending flange 58 abutting an adjoining soffit 26 (see Figs. 4-7).

Claims 1, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills Jr. et al. (US 5,239,791).

In regard claim 1, Mills teaches a system comprising a first member 26 and a second member 30, said first member 20 having an upper section, a drip edge D (see attachment of Fig. 2) formed at an extremity of said upper section, a second lower section 62 which includes a generally vertical extending portion having first cooperative locking means 70 associated therewith, said second member 10 comprising a fascia member S having second cooperating locking means 90 at an upper portion 78, the first cooperative locking means hold said fascia member S in position, said second member 30 having a generally planar central portion 78, and an inwardly extending flange 74 arrangement at a bottom end of said generally planar portion 78 (see Fig. 3).

In regard claim 8, wherein further including a cleat serves as tensioning member 14 (see Fig. 3) being designed to be secured to a building structure S and to contact said inwardly extending flange arrangement 74 of said second member 30.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knoebl (US 4,461,128) in view of Zaccagni et al. (US 5,735,084).

In regard claim 10, Knoebl teaches the basic structures for the soffit and fascia system as set forth above except for the first member and second member are formed of a metallic sheet material. Zaccagni teaches fascia and soffit combination which made out from sheet metal such as sheet aluminum (see col. 1, line 23-26). At the time of the invention was made, it would have been obvious to substitute Knoebl's fascia system for Zaccagni system, which made out by sheet of metal because metal material is stronger and integrity.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butzen (US 4,707,954).

In regard claim 4, Butzen teaches the basic structures as stated except for the sheet material is aluminum. At the time of the invention, it would have been obvious to a person having an ordinary skill in the art to have aluminum for sheet material because aluminum is not corrosive when contact with water and lightweight, etc.

Claims 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills, Jr. et al. (US 5,239,791).



In regard claims 5, and 6, Mills teaches the basic structures for the system as set forth above. Mills does not teach specifically the second cooperative locking means comprises a plurality of outer extending projections and the first cooperative locking means comprises recess portions and the second member has a plurality of spacing projections formed on said generally planar portion. It would have been obvious of reversal structure variations because as shown in Figs. 2-3, Mills including said first cooperative locking means 70 are projections formed on said generally planer central portion and the second cooperative locking means 90 having pockets 94 to receive the projections. Therefore the locking means on both members taught by Mills would have been functional equivalent such as locking the two members together via projections and pockets, etc.

#### ***Allowable Subject Matter***

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gile, Inzeo, Zaccagni, Stearns, Gunning, Butzen, and Kittilstad teach combination of fascia system and soffit.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-

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6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Naoko Slack can be reached at (571) 272-6847. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

7/27/2006

  
CQN

  
N. Slack  
Supervisory Patent Examiner

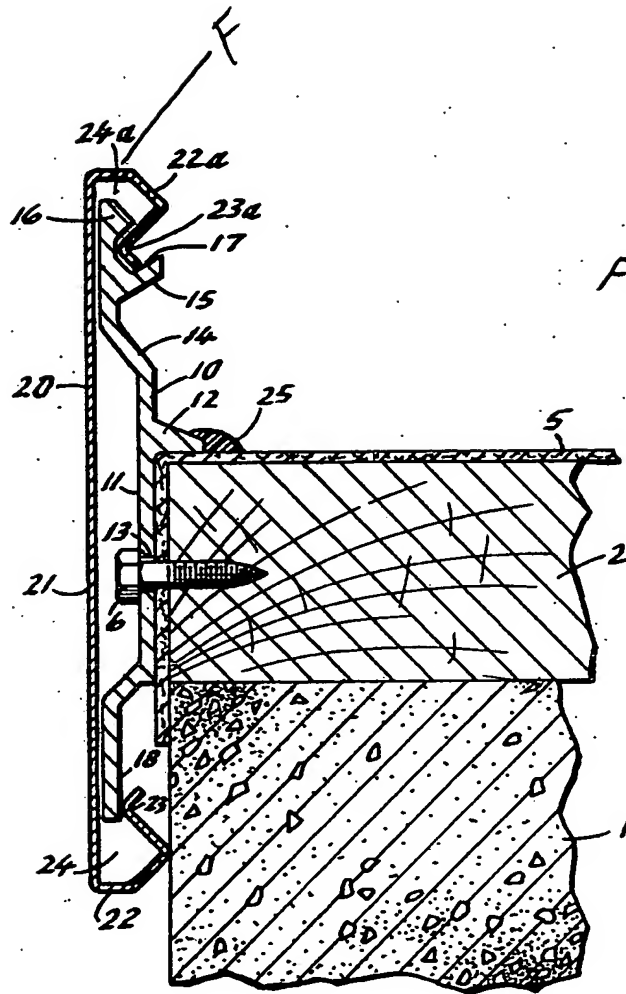


FIG. 1.

